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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Gregory J. Mesaros

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Himanshu S. Amin
National City Center, 24th Floor
1900 East 9th Street
Cleveland, OH 44114

EXAMINER

NGUYEN, CUONG H

ART UNIT

PAPER NUMBER

3661

DATE MAILED: 08/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/922,884

Applicant(s)

MESAROS, GREGORY J.

Examiner

CUONG H. NGUYEN

Art Unit

3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19, 43-47 and 57-76 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19, 43-47 and 57-76 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/12/06, 8/16/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is the answer to the amendment received on 6/12/2006.
2. Claims 1-19, 43-47, and 57-76 are pending; claims 70-76 are newly added.

Response

3. The examiner respectfully submits that the arguments filed on 6/12/2006 are unpersuasive based on what the applicant claims. The examiner interpreted about claimed broad term of “a logistic component” (no further elaboration in pending claims) is a formula/calculator – this is very well-known in a computer. All pending claims are in “system” formats; therefore, they should comprise components/devices/modules .etc – that is claiming “what it is instead of what it does” for clarities. For example, the examiner respectfully submits his interpretations of independent claim 1, as followings:

It is directed to a system to calculate pricing, comprising:

- an offer(s) and order(s) component, that is merely an interface screen for receiving/communicate orders between a provider, and customer(s) – this is very well-known; therefore, it is not an inventive feature;
- a calculator, and a Look-Up-Table that provides a shipping/handling (S/H) price(s) – this is very well-known; therefore, it is not an inventive feature.
- According to above interpretations, what applicant claims is not inventive.

4. As to “system” claim 43; the applicant narrows his claimed scope to indicate a server; however, this server is merely a provider’s computer that coupling to a network that determines S/H prices of orders; cited reference(s) suggest what was claimed by the applicant (the examiner already took into account in previous Office Action a meaning of “the shipping price being determined based at least in part upon the plurality of buyer

sharing a shipping method” – please note that “based at least in part” is an open-ended phrase because “based on all buyers” still read-on that meanings/claimed languages.

The examiner respectfully submits that cited reference (s) discloses a system with a memory, what contains in that memory is called “non-functional descriptive material” and are obvious to one with ordinary skill in the art because using “historical data” and “buyer input data” have been known sources to determine shipping prices for customer (e.g., determining whether that is a frequent/loyal customer or a normal customer with his name, and address).

5. The examiner maintains 35 USC 103(a) on claims 14-19, and 46 since their minor amendments were already been considered in a previous Office Action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1-19, 43-47, and 57-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pallakoff (U.S. Patent No. 6,269,343), in view of Thomas et al.’JIT (JIT: Strategies for distant suppliers, from Dialog® File 15, acc. No. 00536805 91-11149).**

A. As to independent claim 1: Pallakoff discloses a system, comprising components to:

- electronically offering a product for sale (see Pallakoff, Fig. 1 ref. 12a, and col. 3 line 5 - col. 4 line 36);

- receiving a first order for the product at a first price (see Pallakoff, col. 3 line 11 - col. 4 line 17);
- receiving a second order for the product at a second price, the second price being lower than the first price (see Pallakoff, col. 2 lines 27-28; col. 3 line 11 - col. 4 line 17); then a seller will make a price decision/calculation (that means including a shipping price (a customer has to pay) for a total cost of each order, see Pallakoff, col. 6 lines 14-21, and col. 11 lines 44-46).
- Pallakoff does not expressly disclose about sharing a shipping fee to reduce a cost for the product.
- However, Thomas et al. suggest that “sharing shipping costs with other manufacturers is one of many strategies to reduce costs (see Thomas et al., the abstract).

The examiner also respectfully submits that “delivery lunch” to an office with many different courses for many employees from a Chinese restaurant read-on the claim idea of “different buyers sharing shipping”, i.e. a delivery fee for lunch meals that ordered together in a list is different and cheaper than the cost for shipping/delivery from that same restaurant to different individual orders for that lunch.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to combine Pallakoff’s system and Thomas et al.’s idea to suggests a system to calculate/charge a lower price for customers (including shipping price for that order – usually an order’s shipping cost is calculated from weight/size of that order, it is well-known to include many different orders in one package for the advantage of to avoid standard charges for separate orders; especially many employees of the same office order different products in a list from that same office). Please note that this claim is merely a

system to calculate a lowest price for customers including shipping prices determinations according to USA zip-code for shipping to because according to the above Chinese restaurant well-known example, ordering together would save shipping fees comparing to making separate orders.

B. As to dependent claim 3: Pallakoff suggests a system to receiving different orders from different parties, and manages those information (see Pallakoff's Internet configuration, Fig. 1 refs. 14a – 14d).

C. As to dependent claims 4-5: Pallakoff discloses an access control component (including sending messages/notices to sellers, and buyers/users, see Pallakoff, Fig. 1 ref. 1, Fig.3 refs. 37-38).

D. As to dependent claim 6: Pallakoff's system inherently comprises a terms and conditions component to manage agreements between buyers and sellers (see Pallakoff, the abstract's "conditional offer", and col. 1 line 55 – 58, and col. 12 lines 5-10 "term").

E. As to dependent claims 7, 12-13: Pallakoff inherently teaches a blanket pricing component to manage agreements between buyers and sellers as to product prices, managing accounts (i.e., "maintaining a deposit account with the system operator", and providing decision supports to buyers/sellers - see Pallakoff, Fig. 1 ref. 13 – the "System Controller 13" performs above claimed functions).

F. As to dependent claim 11: Pallakoff discloses that a system controller 13 comprises a RFP component operable to manage product requests (see Pallakoff, Fig.1).

G. As to dependent claims 14, 19: Pallakoff discloses a system with terminal 12 and terminal 14 representing a seller agent, and a buyer agent; Pallakoff inherently teaches that his system creates an order a buyer according to a buyer's request (see Pallakoff, col. 11 lines 44-46).

H. As to dependent claim 16: Pallakoff inherently teaches that a system controller 93 gives detail information of a sellers in an offer (see Pallakoff, Fig.1 ref. 93, and Fig.3 ref.37).

I. As to independent claim 43: Pallakoff discloses a system for volume pricing, comprising:

- a server configured to receive orders for a product from a plurality of different buyers via at least one remote computer system, the server comprising “physical components”:

- a processor;
- a memory coupled to the processor; and
- a network interface coupled to the processor for transmitting and receiving data with a remote computer system (see Pallakoff, Fig.1).

Pallakoff does not expressly disclose specific content of a memory; however, the examiner respectfully submits that Pallakoff sufficiently provides structural components to build up the claimed system.

It would have been obvious to one of ordinary skill in the art at the time of invention to implement Pallakoff’s structure to contain a first price schedule and a second price schedule due to these schedules are merely “written material” that do not significantly change the claimed structure of Pallakoff (please note also that a common practice of “share-shipping” has been widely used).

J. As to dependent claims 44-45: Pallakoff obviously suggests that a first and a second price are determined according to a quantity of product ordered, or depending on when an order is placed (see Pallakoff, Fig.3 ref. 32, the abstract, and claims 1, 8). Please note also that this claimed limitation is non-functional written material for a memory component.

K. As to dependent claim 46: Pallakoff discloses a system wherein different buyers access to view detailed product information (e.g., the first and second price schedules) via remote computes (see Pallakoff, Fig.9 ref. 96) – moreover, it is common sense to display detailed

materials/data because a user always want to know detailed information before making an order of a product.

L. As to dependent claim 47: Pallakoff discloses a system controller 13 comprising a memory storage to receiving orders wherein a server being configured to limit a period during which orders for the product are accepted to an open session period – a non-functional detail description material: a limited time requirement (see Pallakoff, Fig.3 ref. 32, and claims 1, 8).

M As to dependent claim 2: This claim is merely directed to a system as in claim 1, comprising a product catalog – the examiner respectfully submits that this claimed feature is well-known.

Pallakoff discloses a system to order a variety of products (see Pallakoff, Fig. 1 refs. 12a-12x).

Pallakoff does not disclose a catalog of products in his system.

However, a list of products would have been available for customers to make selections, and knowing that product's availability, and price .etc., those information would have been obvious to one of ordinary skill in the art at the time of invention as "catalog" means containing related information of provided products for related references.

N. As to dependent claims 8-10: Pallakoff discloses a system comprising a product database (system controller 13 consists of server hardware running database software).

He does not disclose a relationships component to manage relationships between products (a byproduct relationship – e.g., a monitor screen and a desk-top computer system, or a NEC monitor screen 17" versus a NEC monitor screen 20")

However, it would have been obvious to one of ordinary skill in the art at the time of invention to implement Pallakoff's structure to use a relational database instead of a regular

database for “linking” between products because a relational database is merely “written material” that do not significantly change Pallakoff’s system.

O. As to dependent claims 15, and 18: Pallakoff does not disclose that his system uses customer’s historical data to determine a price.

However, it was old and well-known that customers’ historical data/profiles have been widely used for selling products (e.g., a Circuit City store uses customer’s phone number to trace a consumer’s history, and Best Buy stores give discount coupons (a different price) to past customers in their database) – a motivation for using customer’s profile for determining a price is to encourage regular visitors for doing more business with those stores (please note that claim 18’s “to assist at least one of the plurality of buyers in finding a best buy for at least one of a plurality of products” is merely an intent of use of a “system” claim).

It would have been obvious to one of ordinary skill in the art at the time of invention to implement Pallakoff’s system for using customer’s historical data to determine a pricing strategy of a product with respect to at least one of the plurality of buyers.

P. As to dependent claim 17: Pallakoff suggests that his system could provide information of a production schedule (e.g., delivery time).

The motivation is that detail information about a production schedule has been informed to buyers for anticipation/preparation of their own events.

Q. As to dependent claims 73, and 76: The rationales and references for claim 1 are incorporated.

The examiner respectfully submits that claimed limitation of: “*an order from at least one of the plurality of buyers is independent from other order received*” is interpreted as: “an order from a buyer is independent from others” – this has been well-

known; e.g., S/H fee to a same address for a BIG box/package (from a store) with different sub-orders from several employees in an office

The motivation is that detail information about each particular order has been listed to different buyers for clear details of charges on each item; a S/H cost can be easily divided among ordered people later on.

R. As to dependent claims 70-72, and 74-75: The examiner respectfully submits that these claims are directed about facilitating shipping aggregation for buyers, i.e., creating savings when order.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine Pallakoff's system and Thomas et al.'s idea to suggest a system to calculate/charge a lower price for customers (including shipping price for that order – usually an order's shipping cost is calculated from weight/size of that order, it is well-known to include many different orders in one package because those orders go to a destination for the advantage of to avoid standard charges for separate orders; especially many employees of the same office order different products in a list from that same office).

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Prior art considered includes:

- Shkedy (U.S. Patent No. 6260024) discloses systems and methods are described for providing a global bilateral buyer-driven system for creating binding contracts by incorporating various methods of communication, commerce and security for the buyers and the sellers.

- Walker et al. (U.S. Patent no. 6,108,639) discloses a collectible conditional

purchase offer (CPO) management system is disclosed for receiving and, processing individual CPOs from buyers for one or more collectibles.

- Walker et al. (U.S. Patent No. 5,794,207) discloses a method and apparatus for effectuating bilateral buyer-driven commerce.

Conclusion

8. Pending claims are unpatentable; THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicants are reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CUONG H. NGUYEN whose telephone number is 571-272-6759. The examiner can normally be reached on 9:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THOMAS G. BLACK can be reached on 571-272-6956. The Rightfax number for the organization where this application is assigned is 571-273-6956.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Please provide support, with page and line numbers, for any amended or new claim in an effort to help advance prosecution; otherwise any new claim language that is introduced in an amended or new claim may be considered as new matter, especially if the Application is a Jumbo Application.


CUONG H. NGUYEN
Primary Examiner
Art Unit 3661